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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,196

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John A. Gelardi

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07/22/2008

MEADWESTVACO CORPORATION

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EXAMINER

GRANO, ERNESTO ARTURIO

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/595,196

**Applicant(s)**

GELARDI ET AL.

**Examiner**

ERNESTO A. GRANO

**Art Unit**

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 6, 8-10, 13, 14 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 8-10, 13, 14, and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Receipt is acknowledged of Applicant's amendment filed on 04/17/2008.

- Claims 2-5, 7, 11, 12, 15, and 16 were canceled.
- Claims 19-22 were added.
- Claims 1, 6, 8-10, 13-14, and 17-22 are presented for examination.

#### ***Drawings***

The objections to the drawings are withdrawn in light of the Applicant's Amendments.

#### ***Specification***

The objections to the Specifications are withdrawn in light of the Applicant's Amendments.

#### ***Claim Rejections - 35 USC § 112***

The previous 35 USC 112 rejection of claim 15 is withdrawn in light of Applicant's Amendment canceling claim 15.

Claims 1, 6, 8, 9, 19, 20, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 6, 8, 9, 19, 20, 21, and 22 "said card comprising at least one detent receiver and at least one retainer receiver" is confusing. It is unclear if the applicant is claiming two structures or a single structure. The applicant's drawings disclose the claimed invention having a single aperture that acts as both a detent receiver (when closed) and said retainer receiver (when opened), but the claim language indicates that they are two separate structures. For the purpose of examination, the examiner presumes that the detent receiver and retainer receiver are two separate structures.

Claims 14, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the applicant is claiming a card and case or a card that is capable of being positioned in or out of a case. For the purpose of examination, the examiner presumes that applicant is claiming a card that is capable of being positioned in or out of a case.

Since, the rejections under 35 U.S.C. 112, second paragraph, were not previously presented, this action is made **Non Final**.

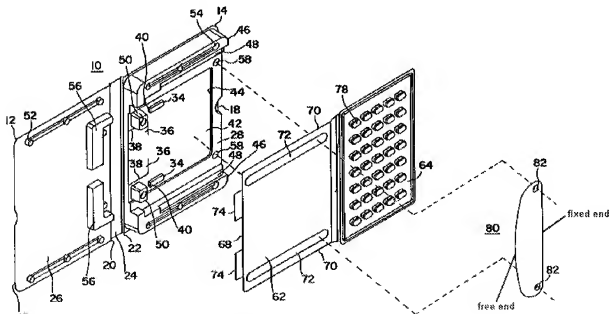
**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Buss (US Patent 6,349,831).



**FIG. 1**  
(examiner modified)

In re claim 1, with reference to figures 1 and 8, Buss ('831) discloses a storing and dispensing system, comprising:

- a case (10) and a slideable card (64) holding items to be dispensed

- said card (64) comprising at least one detent receiver (74) and at least one retainer receiver (72)
- said case (10) comprising:
  - a first side (12) matingly connected to a second side (14) to form a void capable of receiving said card (64) opposite closed edges and a dosed end (24) formed by said mated connection and further defining said void
  - an open end opposite said dosed end (24) configured to permit said card (64) to translate between a first position (closed) and a second position (opened)
  - at least one detent (34) extending from one of said sides (14) toward said void for engaging said detent receiver (74)
  - a release proximate (36) to said detent (34) configured to disengage said detent receiver (74) and said detent (34)
  - a retainer (80) located within said void having a fixed end and a distal free end, said free end configured to engage said retainer receiver (72) and interrupt the separation of said card (64) from said case (10) (see column 4, lines 54-64)
  - wherein said retainer (80) capable of being configured to permit said free end to be disengaged from said retainer receiver (72) by a replacement card

- whereby engaging said detent (34) and said detent receiver (74) locks said card (60) within said case (10), and manipulating said release (36) to disengage said detent (34) and said detent receiver (74) unlocks said card (64)

In re claim 6, with reference to figures 1 and 8, Buss ('831) discloses wherein said card (64) comprises a unit dose blister card (64) holding consumable medicaments (90). See column 4, paragraph 3

2. Claims 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Buss (US Patent 6,349,831).

In re claim 10, with reference to figures 1 and 8, Buss ('831) discloses a child-resistant apparatus comprising:

- a base (12) matingly connected to a top (14) to form a void for receiving a blister card (64) holding medicaments (90)
- opposite sides and a dosed end (24) formed by said mated connection, further defining said void
- an open end opposite said dosed end (24), that is capable of being configured to permit translating motion of a card
- one detent (34) positioned within said void capable of engaging a card (64) in a first, substantially received, position (closed)

- one inwardly-extending appurtenant (56) disposed within said void adjacent to said detent (34) and capable of exerting a compressive force, to urge a card to engage said detent (34) when a card is in said first position (closed) (see figure 12)
- a release (36), integral to said case (10) and proximate to said detent (34), configured to disengage said card (64) from said detent (34)
- one retainer (80) positioned within said void capable of engaging a card (64) in a second, substantially extended, position (opened).

In re claim 13, with reference to figure 1, Buss ('831) discloses wherein said retainer (80) comprises a releasable, inwardly-extending second appurtenant (50). (see figure 12)

3. Claims 14, 17, and 18, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Buss (US Patent 6,349,831).

In re claim 14, with reference to figure 1 above, Buss ('831) discloses a blister card for use with a child-resistant blister card receiving case (10), comprising:

- a first side (1<sup>st</sup>) having a plurality of pliable blisters (78) configured to receive medicaments (90) (see figure 8)
- one medicament positioned (90) (see figure 8) within at least one blister (78)



- a breakable sealant affixed to a second side (2<sup>nd</sup>) and securing said medicaments (90) in said, respective, blisters (78) (see column 5, lines 14-16)
- one detent receiver (72), capable of being configured to engage a detent (34) of a case when said card (64) is in a first, substantially received position (closed)
- one retainer receiver (72), capable of being configured to engage a retainer (80) attached to a case when said card (64) is in a second substantially extended position (opened)
- wherein said blisters (78) are capable of being positioned to permit said card (64) to slide between said first and second positions (closed and opened).

In re claims 17 and 18, the claims are directed towards functional language. Functional languages only requires that the prior art be capable of performing the functions described. Buss ('831) is capable of performing the functions described.

Please note that the claims are directed to apparatus which must be distinguished from the prior art in term of structure rather function [MPEP 2144]. Hence, the functional limitations "first position and second position" which are narrative in form have not been given any patentable weight. In order to be given patentable weight, a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the

presence of the functional language. ***In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997)***

### ***Response to Arguments***

Applicant's arguments filed 04/22/2008 have been fully considered but they are not persuasive. Regarding claim 1, the applicant fails to include all the limitations as indicated to be allowable (failure to include claim 2). Regarding claim 10 and 14, no argument was presented.

However, upon further consideration, a new ground(s) of rejection is made for claims 1, 6, 10, 13, 14, 17, and 18 in view of the new interpretation of Buss (US Patent 6,349,831).

### ***Allowable Subject Matter***

Claims 19 and 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 8, 9, 20, and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERNESTO A. GRANO whose telephone number is (571)270-3927. The examiner can normally be reached on 7:00am - 4:00pm Mon.-Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner  
AU 3728

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Examiner  
Art Unit 3728